

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA
:
- v. - : CONSENT PRELIMINARY ORDER
:
PORFIRIO LUGO, : MONEY JUDGMENT
:
Defendant. : S3 18 Cr.723 (PGG)

- - - - - x

WHEREAS, on or about December 13, 2019, PORFIRIO LUGO (the "defendant"), was charged in a two-count Superseding Information, S3 18 Cr. 723 (PGG) (the "Information"), with conspiracy to distribute and possess with the intent to distribute oxycodone, in violation of Title 21, United States Code, Sections 841(b)(1)(C) and 846 (Count One); conspiracy to commit health care fraud, in violation of Title 18, United States Code, Section 1349 (Count Two);

WHEREAS, the Information included a forfeiture allegation as to Count One of the Information, seeking forfeiture to the United States, pursuant to Title 21, United States Code, Section 853, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense charged in Count One, and any and all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense charged in Count One, including but not limited to a sum of money in United States

currency representing the amount of proceeds traceable to the commission of the offense charged in Count One of the Information;

WHEREAS, the Information included a second forfeiture allegation as to Count Two of this Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), any and all property, real and personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense charged in Count Two, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of the offense charged in Count Two of the Information;

WHEREAS, on or about October 7, 2019, the defendant pled pled guilty to Counts One and Two pursuant to a cooperation agreement with the Government, wherein the defendant admitted the forfeiture allegation with respect to Counts One and Two and agreed to forfeiture to the United States; and

WHEREAS, the defendant consents to the entry of a money judgment in the amount of \$57,600 in United States currency, pursuant to Title 21, United States Code, Section 853 and Title 18, United States Code, Section 982(a)(7), representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Information that the defendant personally obtained;

WHEREAS, the defendant admits that, as a result of acts and/or omissions of the defendant, the proceeds traceable to the offenses charged in Counts One and Two of the Information that the defendant personally obtained cannot be located upon the exercise of due diligence.

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Audrey Strauss, Acting United States Attorney, Assistant United States Attorney, Juliana N. Murray of counsel, and the defendant, and his counsel, Lawrence Fisher, Esq., that:

1. As a result of the offenses charged in Counts One and Two of the Information, to which the defendant pled guilty, a money judgment in the amount of \$57,600 in United States currency (the "Money Judgment"), representing the amount of proceeds traceable to the offenses charged in Counts One and Two of the Information that the defendant personally obtained, shall be entered against the defendant.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture/Money Judgment is final as to the defendant, PORFIRIO LUGO, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

3. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, made payable, in this instance, to the United States Department of Treasury, and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York 10007 and shall indicate the defendant's name and case number

4. The United States Department of Treasury or its designee shall be authorized to deposit the payment on the Money Judgment in the Treasury Assets Forfeiture Fund, and the United States shall have clear title to such forfeited property.

5. Pursuant to 21 U.S.C. § 853(p), the United States is authorized to seek forfeiture of substitute assets of the defendant up to the uncollected amount of the Money Judgment.

6. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

7. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture/Money Judgment, and to

amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

8. The Clerk of the Court shall forward three certified copies of this Consent Preliminary Order of Forfeiture/Money Judgment to Assistant United States Attorney Alexander J. Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, United States Attorney's Office, One St. Andrew's Plaza, New York, New York 10007.

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9. The signature page of this Consent Preliminary Order of Forfeiture/Money Judgment may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

AUDREY STRAUSS

Acting United States Attorney for the
Southern District of New York

By: /s/Juliana Murray
Juliana N. Murray
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2314

8/20/2020
DATE

PORFIRIO LUGO

By: Porfirio Lugo
Porfirio Lugo

8/20/2020
DATE

By: [Signature]
Lawrence Fisher, ESQ.
Attorney for Defendant
233 Broadway, Ste. 2348
New York, NY 10279

8/20/2020
DATE

SO ORDERED:

Paul G. Gardephe
HONORABLE PAUL G. GARDEPHE
UNITED STATES DISTRICT JUDGE

9/3/2020
DATE